

TENNESSEE HOUSING DEVELOPMENT AGENCY

SUMMARY OF LEAD-BASED PAINT REGULATIONS EFFECTIVE SEPTEMBER 15, 2000

On September 15, 1999, the Department of Housing and Urban Development (HUD) issued a final regulation to protect young children from lead-based paint hazards in housing constructed prior to 1978 that is federally owned or assisted. **Subpart M, Tenant Based Rental Assistance applies to units occupied or to be occupied by families or households that have one or more children of less than 6 years of age, including common areas and exterior painted surfaces associated with these units.** NOTE: Zero (0) bedroom units and housing specifically designated or reserved for households of elderly or disabled persons are excluded from this regulation, unless a child under the age of six resides or is expected to reside in the unit. Units that have been tested and have been certified to be lead free, or units in which all lead-based paint has been identified, removed and has passed a clearance examination, are also exempt from the regulation.

Units of families participating in the Section 8 Rental Assistance Program are inspected according to Housing Quality Standards (HQS) before initial move-in and once a year thereafter. A component of the inspection is to identify areas of deteriorated paint in these units.

HQS and Stabilization of Deteriorated Paint

During the inspection of a targeted unit, the interior and exterior paint is closely inspected for any deterioration. If deteriorated paint is identified, the size of the area of deterioration is evaluated. **All deteriorated paint must be stabilized to pass HQS.** However, the amount of deteriorated paint determines how it must be stabilized and whether clearance will be required. HUD refers to these amounts as the “de minimis” levels. They are as follows:

- 20 square feet on exterior surfaces
- 2 square feet in any one interior room or space
- 10% of a type of building component with a small surface area (such as painted windowsills) on interior or exterior surfaces

Areas of Deteriorated Paint Below “de minimis”

If the area of deteriorated paint is **less** than or equal to the de minimis levels, the paint must be stabilized, but, for these small amounts of deterioration, lead-safe work practices and clearance are not required. NOTE: Working safely on lead-based paint is always highly recommended. The individual stabilizing the paint may do so without specific “lead-safe work practices” training. The “prohibited methods of paint removal” **must be avoided**, as listed below:

- Open flame burning or torching
- Abrasive blasting without high efficiency (HEPA) vacuum local exhaust
- Machine sanding or grinding without HEPA vacuum local exhaust
- Heat guns at temperatures above 1100°F
- Dry scraping (wet scraping should be done instead, except near electrical outlets, where use of water could result in electrocution hazards and except for very small areas of deteriorated paint, such as nail holes and hairline cracks)
- Paint stripping in a poorly ventilated space using a volatile stripper that is a hazardous substance (according to regulations of the Consumer Product Safety Commission or the Occupational Safety and Health Administration), such as methylene chloride

NOTE: Pressure washing on exterior surfaces is strongly discouraged by the Tennessee Housing Development Agency

A clearance examination will not be required if the area of deteriorated paint is **less** than the de minimis levels.

Areas of Deteriorated Paint Above “de minimis”

If the area of deteriorated paint is **more** than the de minimis levels, the person doing the work to stabilize the paint is only allowed to correct the deteriorated paint **provided** he/she has received HUD-approved training in lead-safe work practices. The person performing the work will be required to provide proof of the training. (A “Notice of Completion” is issued to every participant who completes the HUD-approved training course) To obtain information about HUD-approved training courses, please call 1-(866)-HUD-1012, or through the Internet at www.leadlisting.org

If a person trained in lead-safe work practices cannot be found to perform the work, the Tennessee Dept. of Environment and Conservation (TDEC) may be contacted at 1-(888)-771-5323, or through the Internet at www.state.tn.us/environment/swm/leadpaint/index.html to obtain a list of persons or companies who have been certified to stabilize paint.

Once the deteriorated paint has been stabilized, a visual assessment (inspection) must be conducted by a THDA staff person to ensure that all visible signs of dust and debris have been removed from the unit.

After the unit has passed the visual assessment, a clearance examination will be required to ensure that the unit is lead-safe. The Owner will be required to hire a person or company certified by the Tennessee Dept. of Environment and Conservation (see above) to conduct the clearance examination. THDA will pay up to \$150 for the cost of the initial clearance examination. If the unit does not pass the initial clearance examination, the Owner will be responsible for the cost of any subsequent clearance examinations. **The unit will not pass HQS until the unit passes the clearance examination.**

The Owner must notify the tenant and THDA of the results of the clearance examination **within 15 days**. The “Hazard Reduction Notice” (Notice #1, attached) can be used for this purpose. NOTE: A copy of the clearance examination report must be attached to the notice.

Requirements for a Lead-Poisoned Child

If a child under the age of six resides in a unit constructed prior to 1978, and is identified as being lead-poisoned, a **risk assessment** must be conducted. **The local health department or other medical health care provider must verify the report of the lead-poisoned child.** At that time, either the State Coordinator, Director, or Assistant Director of the Rental Assistance Division of the Tennessee Housing Development Agency must contact the Child Health Director of the Tennessee Dept. of Health. The Dept. of Health will then contact the Tennessee Dept. of Environment and Conservation, who will be responsible for conducting the Risk Assessment within 15 days of notification.

The Risk Assessment must be conducted on the dwelling unit, including common areas servicing the dwelling unit, if the child lived in the unit at the time the child’s blood was sampled. The assessor will issue a report explaining the results of the investigation, as well as options and requirements for reducing lead-based paint hazards.

Upon completion of the Risk Assessment, THDA must provide the report to the Owner. The Owner must notify the tenant of the results of the Risk Assessment **within 15 days** of receipt from THDA. For your convenience, attached you will find a “Summary Notice of Lead-Based Paint Risk Assessment” form (Notice #2) that can be utilized for notifying the tenant of the results of the Risk Assessment.

The Owner must complete the lead-hazard reduction work as identified in the Risk Assessment within 30 days (or date specified by THDA if an extension is granted for exterior surfaces). If the Risk Assessment states that any activity other than paint stabilization is required, the Owner must hire a person or company certified by the State of Tennessee to perform the work. The Owner may perform paint stabilization **provided** he, or someone he employees, has completed a HUD-approved training course. For all other activities, such as abatement, interim controls, and dust and soil contamination controls, a certified person or company must perform the lead-hazard reduction work. The appropriate methods of correction should be stated in the Risk Assessment.

Once the lead-paint hazard reduction work is completed, a clearance examination will be required. The Owner will be required to hire a person or company certified by the Tennessee Dept. of Environment and Conservation to conduct the clearance examination. THDA will pay up to \$150 for the cost of the initial clearance examination. If the unit does not pass the initial clearance examination, the Owner will be responsible for paying for any subsequent clearance examinations. NOTE: The individual performing the clearance examination must be independent of those performing the work.

Once clearance is achieved, the Owner must notify the tenant and THDA of the results of the clearance examination **within 15 days**. The “Hazard Reduction Notice” (Notice #1, attached) can be used for this purpose. A copy of the notice, along with the results of the clearance exam,

must be maintained in the tenant's file at THDA. **The unit will not pass HQS until the unit passes the clearance examination.**

Please note that once a lead-poisoned child has been identified in a unit, any lead hazards identified in the risk assessment must be corrected, and clearance must be achieved within 30 days. This is required before the unit can continue to receive rental assistance – even if the lead-poisoned child is no longer present in the unit. In other words, if the family chooses to relocate to another unit, the unit must pass a clearance examination before any other tenant (including a family without a child(ren) under the age of six) can move into the unit receiving federal assistance.

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Owners of units participating in the Section 8 Rental Assistance Program are strongly encouraged to maintain interior and exterior paint in good condition to help prevent children from becoming lead-poisoned.